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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

MAXIMO MONAREZ RAMOS,

Defendant and Appellant.

E055781

(Super.Ct.No. RIF084231)

OPINION

APPEAL from the Superior Court of Riverside County. Christian F. Thierbach,  
Judge. Affirmed.

Reed Webb, under appointment by the Court of Appeal, for Defendant and  
Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Maximo Monarez Ramos appeals after the trial court  
denied his motion to grant him additional presentence conduct credits pursuant to Penal  
Code former section 4019, which became effective on January 25, 2010, now superseded.  
We affirm the trial court's order.

## PROCEDURAL BACKGROUND

Following a jury trial in 2000, defendant was found guilty of possession for sale of cocaine (Health & Saf. Code, § 11351, count 1); transportation of cocaine (Health & Saf. Code, § 11352, subd. (a), count 2); receiving proceeds from drug transactions with the intent to conceal them to avoid reporting requirements (Health & Saf. Code, § 11370.9, subd. (b), count 3); storage of a controlled substance (Health & Saf. Code, § 11366.5, subd. (a), count 4); and conspiracy to sell cocaine in violation of Health and Safety Code section 11352, subdivision (a) (Pen. Code, § 182, count 5). Also, the jury found true that defendant possessed cocaine in an amount exceeding 80 kilograms. (Health & Saf. Code, § 11370.4, subd. (a)(6), as to counts 1, 2, & 5.)<sup>1</sup>

Defendant was sentenced to a total term of 29 years in state prison as follows: the middle term of four years for count 2 and a consecutive term of 25 years for the weight enhancement in count 2. The remaining counts were stayed or imposed concurrently. The trial court awarded defendant 606 days of actual presentence custody credits, plus an additional 302 days for conduct credits pursuant to Penal Code former section 4019.

We note that the version of Penal Code section 4019 in effect when defendant was sentenced provided that he was entitled to two days of conduct credit for every four days of presentence custody. (Pen. Code, former § 4019, added by Stats. 1982, ch. 1234, § 7.) Effective January 25, 2010, however, Penal Code section 4019 was amended so as to

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<sup>1</sup> We take judicial notice of our prior unpublished opinion in *People v. Ramos* (Oct. 23, 2001, E028048).

provide that a defendant is entitled to two days of conduct credit for every two days of presentence custody. (Stats. 2009, 3d Ex. Sess. 2009-2010, ch. 28, § 50.)

About 12 years later, in February 2012, defendant, in propria persona, filed a motion to grant him additional presentence conduct credits based upon a retroactive application of that amended Penal Code section 4019.

On February 2, 2012, after the trial court read and considered defendant's motion, it denied defendant's request for additional conduct credits.

### DISCUSSION

Defendant appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case, a summary of the facts and potential arguable issues, and requesting this court conduct an independent review of the record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. We note that the California Supreme Court recently addressed whether the January 25, 2010, amendment to section 4019 should be given retroactive effect. (*People v. Brown* (2012) 54 Cal.4th 314.) In the absence of specific legislative intent to the contrary, the court reiterated the long-standing principle of statutory construction that the amendment applies prospectively. (*Id.* at p. 318.) The court noted Penal Code section 3 requires prospective-only application unless it is ““very clear from extrinsic sources”” that the amendment should apply retroactively. (*Brown*, at p. 319.) *Brown*

found no cause to apply the January 25, 2010, amendment retroactively. (*Id.* at pp. 320-322.)

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues.

#### DISPOSITION

The judgment is affirmed.

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RAMIREZ

P. J.

We concur:

McKINSTER

J.

MILLER

J.